

REMARKS

Applicant has amended independent claims 33 and 64 to each recite that the agent or means comprises choline chloride, sodium chloride, and magnesium chloride. Support for this amendment can be found in the specification, for example, in Paragraph 0014.5. (The paragraph numbers of the specification recited in this response are in reference to the substitute specification filed March 29, 2004.) Accordingly, no new matter has been added. Dependent claims 34, 35, 66, 72, and 73 have been correspondingly amended to provide proper antecedent basis. No new matter has been added.

Claim 64 has also been amended to recite “confinement to bed.” This amendment finds support in the specification, for example, in Paragraph 0002. Accordingly, no new matter has been added.

Claim 71 has been cancelled without prejudice. Claim 72 has been rewritten to depend from claim 33.

Claims 33-35, 38-44, 47-53, 56-59, 61-67, 69, 70, and 72-81 are now pending for examination.

Applicant also notes that the Patent Office appears to have the title of the application as “Topical Delivery of Arginine of Cause Beneficial Effects.” The correct title of the application, as filed, is “Topical Delivery of L-Arginine to Cause Beneficial Effects.” Applicant respectfully requests that the Patent Office’s records be corrected.

Rejection of Claims 64-67 and 69 under 35 U.S.C. §112, ¶1

Claims 64-67 and 69 have been rejected under 35 U.S.C. §112, ¶1, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time that the application was filed, had possession of the claimed invention. The Patent Office states that “bed confinement” was not present in the specification as filed, and is therefore new matter.

Applicant notes that the phrase “confinement to bed” is recited in the specification as originally filed in Paragraph 0002. Accordingly, it is believed that “bed confinement” is not new matter. However, solely to advance prosecution, Applicant has elected to amend “bed confinement”

to “confinement to bed,” rendering this rejection moot. Thus, it is respectfully requested that this rejection be withdrawn.

Rejections in view of Saavedra

Claim 64 has been rejected under 35 U.S.C. § 102(b) as being anticipated by Saavedra, et al., U.S. Patent No. 5,632,981 (“Saavedra”). Claims 65 and 66, which each ultimately depend from claim 64, have been rejected in view of Saavedra under 35 U.S.C. §102(a), or, in the alternative, under 35 U.S.C. §103(a).

It is not seen where in Saavedra is there a disclosure or a suggestion of a means of delivering a substance to the skin that comprises choline chloride, sodium chloride, and magnesium chloride, as is recited in claim 64, as amended. Accordingly, it is respectfully requested that the rejection of claim 64 be withdrawn. Claims 65 and 66 are believed to be allowable for at least the above-mentioned reasons. Withdrawal of the rejection of these claims is also respectfully requested.

Rejections in view of FR 2,740,453

Claims 33, 34, 64, and 70-73 have been rejected under 35 U.S.C. §102(a) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over FR 2,740,453.

It is not seen where in FR 2,740,453 is there a disclosure or a suggestion of a means or an agent comprising choline chloride, sodium chloride and magnesium chloride. Accordingly, it is respectfully requested that the rejection of claims 33, 34, 64, and 70-73 be withdrawn.

Double Patenting Rejection in view of 6,207,713

Claims 33-35, 38-41, 61, and 64-78 have been rejected under the judicially-created doctrine of obviousness-type-double-patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,207,713.

The Examiner has noted that the Patent Office has not yet processed the Applicant’s Terminal Disclaimer filed June 14, 2005. Applicant believes that this rejection will be addressed upon processing of this Terminal Disclaimer. Accordingly, Applicant respectfully requests deferral of this issue until the Examiner has had a chance to consider the Terminal Disclaimer. To assist the Examiner, Applicant has supplied a copy of the previously-filed Terminal Disclaimer herewith.

Double Patenting Rejection in view of 5,895,658

Claims 33-35, 38-44, 47-53, 56-59, 61-67, and 69-81 have been rejected under the judicially-created doctrine of obviousness-type double-patenting as being unpatentable over claims 1-9 of U.S. Patent No. 5,895,658. However, the Patent Office stated that a timely filed Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) may be used to overcome this rejection.

Without acceding to the correctness of this rejection, enclosed herewith is a Terminal Disclaimer with respect to U.S. Patent No. 5,895,658 in compliance with 37 C.F.R. §1.321(c) to overcome this rejection. In view of this Terminal Disclaimer, these claims are believed to be allowable. Withdrawal of the rejection of these claims is therefore respectfully requested.

Double Patenting Rejection in view of 6,458,841

Claims 33-41, 51-53, 56-59, 61, 67, 69-73, and 78-81 have been rejected under the judicially-created doctrine of obviousness-type double-patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,458,841. However, the Patent Office stated that a timely filed Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) may be used to overcome this rejection.

Without acceding to the correctness of this rejection, enclosed herewith is a Terminal Disclaimer with respect to U.S. Patent No. 6,458,841 in compliance with 37 C.F.R. §1.321(c) to overcome this rejection. In view of this Terminal Disclaimer, these claims are believed to be allowable. Withdrawal of the rejection of these claims is therefore respectfully requested.

Double Patenting Rejection in view of 5,922,332

Claims 33-41, 61-63, and 70-73 have been rejected under the judicially-created doctrine of obviousness-type double-patenting as being unpatentable over claims 1-10 of U.S. Patent No. 5,922,332. However, the Patent Office stated that a timely filed Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) may be used to overcome this rejection.

Without acceding to the correctness of this rejection, enclosed herewith is a Terminal Disclaimer with respect to U.S. Patent No. 5,922,332 in compliance with 37 C.F.R. §1.321(c) to

overcome this rejection. In view of this Terminal Disclaimer, these claims are believed to be allowable. Withdrawal of the rejection of these claims is therefore respectfully requested.

Double Patenting Rejection in view of 10/201,635

Claims 33-35, 38-44, 47-53, 56-59, 61-67, and 69-81 have been rejected under the judicially-created doctrine of obviousness-type double-patenting as being unpatentable over claims 1-15 of U.S. Patent Apl. Ser. No. 10/201,635.

As U.S. Patent Apl. Ser. No. 10/201,635 has not yet been granted, Applicant respectfully requests deferral of this issue until the scope of the claims of this application and/or U.S. Patent Apl. Ser. No. 10/201,635 has been more fully determined.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after the foregoing amendments and remarks, that the application is not in condition for allowance, the Examiner is requested to call the undersigned at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

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